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5.0 Introduction

The State Cleanup Program (SCP) was created in 1989 to manage projects not included in the federal Superfund Program under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 *United States Code* (USC) 601 *et seq.* Although the SCP is modeled after the Superfund Program, it differs in many respects. First, unlike the Superfund Program, the SCP has jurisdiction over petroleum releases in addition to releases of hazardous substances. Also, the SCP follows aspects of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 *Code of Federal Regulations* (CFR), Part 300, as well as the Risk Integrated System of Closure (RISC). By applying components of all three programs, the SCP can handle sites of the same environmental magnitude as Superfund Program sites using a more streamlined approach. Finally, the SCP is administered by the State, with no federal involvement or funding. Examples of SCP sites include petroleum terminals and refineries, abandoned landfills, former lead smelting and battery recycling sites, and other industrial sites.

The legal authority for the SCP is Indiana's [Hazardous Substances Response Trust Fund](#), Indiana Code (IC) 13-25-4; Petroleum Releases, IC 13-24-1; and the Indiana Scoring Model (ISM), 329 Indiana Administrative Code (IAC) 7-1.

The Hazardous Substances Response Trust Fund is utilized for cleaning up sites contaminated with hazardous substances. It also establishes liability for potentially responsible parties. Responsible parties and the State's Hazardous Substances Response Trust Fund provide funding for these cleanups. In addition, IC 13-25-4 states that the Indiana Department of Environmental Management (IDEM) may recover the costs of removal or remedial actions when such actions are performed in accordance with the NCP. IC 13-24-1 authorizes IDEM to require cleanup of petroleum contamination. Both the Hazardous Substances Response Trust Fund and IC 13-24-1 also permit IDEM to enter into agreed orders (AO) with responsible parties involved in releases of petroleum or hazardous substances.

This chapter discusses the process for cleaning up sites under the SCP. More information about the SCP is available from the IDEM web page at <http://www.state.in.us/idem/olq/programs/statecleanup> or by calling (317) 234-0361.

5.1 Indiana Scoring Model

Sites qualify for the SCP through the use of a scoring model known as the Indiana Scoring Model (ISM). The ISM provides a regulatory mechanism for IDEM to address hazardous substance response sites that do not qualify for the National Priorities List (NPL). The ISM serves as the IDEM Commissioner's management tool for prioritizing sites that pose the most threat to human health and the environment and for ensuring that IDEM's resources are allocated accordingly.

The ISM combines three numeric scores assigned to a hazardous substance response site based on the potential for harm to human health or the environment from (1) the migration of a hazardous substance away from the site through ground water, surface water, or air; (2) substances that can explode or cause fires; and (3) direct contact with a hazardous substance at the site. Site scoring is a dynamic process, and scores are subject to change based on significant changes in site circumstances, receipt of additional information, or other relevant factors. The final score ranges from 1 to 100, with 100 being the highest. Sites scoring less than 10 are selected for remediation as resources allow.

5.2 Indiana Commissioner's Bulletin

Once a site has been scored, it is placed on the IDEM [Commissioner's Bulletin](#), which helps management determine which sites will be addressed. The Commissioner's Bulletin also ensures that State resources are allocated properly.

The Commissioner's Bulletin is published annually as a nonrule policy in the Indiana Register. The bulletin lists names of the sites along with the most recently available score assigned to each site. The bulletin also informs the public of the location of information used to determine the score for each site and how that information can be obtained. An introduction to the bulletin provides an explanation of the general meaning of the composite scores. A copy of the bulletin and the most recent available scores is mailed to the county health officer and to the county commissioners, town boards, and mayors, as applicable.

5.3 Agreed Order

Once a site is chosen from the Commissioner's Bulletin for remediation, most parties enter into an AO. The AO is a legal and binding document that states the findings of facts, the names of responsible parties, and a statement of the work that needs to be

performed. Under certain conditions, IDEM may conduct immediate removal actions without owner or operator consent.

5.4 Site Investigation and Remediation

RISC provides a model for investigating and remediating SCP sites. All itemized reports and reporting requirements discussed in [Appendix 1](#) are required to document SCP-related activities. Any presampling activities and optional screening data results should be incorporated into the investigation report. In addition, investigation and remediation of petroleum sites must be performed in accordance with the Petroleum Guidance provided in Appendix 4.

5.5 Community Relations Plan

Public participation and involvement is a critical component of a successful remedial action. It is the responsibility of the State to keep the public informed as well as allow for community input in the decision-making process with regard to SCP sites. The SCP follows the NCP's guidance for community relations plans (CRP). The NCP guidelines for the CRP design, implementation, and structure are presented in the NCP at 300.430(c) through 300.435(c).

The CRP guidance requires the State to conduct community interviews, prepare a formal CRP, and establish a local information repository. It also requires the State to publish a notice of availability and brief analysis of the proposed remediation plan, make the proposed plan available in the administrative record (AR) for the site, and provide a public comment period on the proposed plan. The State is also responsible for the following:

- Providing an opportunity for a public meeting
- Keeping a transcript of the public meeting
- Preparing a written summary of significant comments received during the public meeting, along with the State's responses
- Making the summary available in the record of decision (ROD) for the site

5.6 Information Repository

The CRP requires the establishment of an information repository located close to the SCP site location (usually the local library). The State maintains the information repository by adding key documents as they become available. The purpose of the information repository is to allow interested parties and concerned citizens the opportunity to review site documents at a convenient location.

5.7 Record of Decision

The ROD, which serves as the official decision document for a site's remedy selection, summarizes problems posed by the site, alternative remedies considered for addressing these problems, and an analysis of the alternatives. The ROD then identifies the selected remedy and provides the rationale for the selection.

The ROD serves three purposes. First, it describes the technical parameters and goals of the selected remedy. Second, it is a legal document that certifies that the remedy was selected in accordance with CERCLA and NCP requirements. Third, the ROD is a public document that provides a single comprehensive source of information about the site and the remedy. Guidance on ROD preparation is presented in *A Guide to Developing Superfund Records of Decision* (9335.3-02FS-1), May 1990.

5.8 Administrative Record

During site evaluation and remediation in the SCP process, the State is responsible for maintaining an AR. The AR consists of key decision documents and a complete record of site-related activities. The AR provides legal documentation of site-related activities.

5.9 Split Sampling

The State maintains the option to split samples whenever necessary. Split sampling is performed at the discretion of the SCP project manager. Split samples can consist of soil, sediment, ground water, or other environmental media. During a split sampling event, the project manager will collect samples from the same locations and at the same time as the responsible parties. The samples will be analyzed using the same methodologies at different laboratories to determine if analytical results are comparable.

5.10 Natural Resources Damage Assessment

Natural resources are defined in IC 13-11-2-137 as land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the State. CERCLA and the Oil Pollution Act (OPA), [33 USC 2701-2761](#), establish liability for damages associated with the loss or injury of natural resources caused by releases of hazardous substances or oil. CERCLA and OPA require the designation of certain federal and State officials to act on behalf of the public as trustees for natural resources.

The natural resource trustees designated for the State of Indiana include appointed representatives from IDEM, the Indiana Department of Natural Resources (DNR), the U.S. Department of Interior (DOI), and the U.S. Department of Commerce (DOC). The U.S. Fish and Wildlife Service (FWS) is designated to act on behalf of the DOI, and the National Oceanic and Atmospheric Agency (NOAA) is designated to act on behalf of the DOC. The trustees are responsible for seeking compensation for natural resource injuries and utilizing compensator funds for restoring, rehabilitating, replacing, or acquiring equivalent natural resources and any lost services.

A natural resource damage assessment (NRDA) assesses damages to natural resources from releases of hazardous substances or petroleum. The NRDA is used to pursue the recovery of damages and to allocate monies recovered for restoring, replacing, or acquiring equivalent natural resources. CERCLA and the NCP provide for prompt notification of and coordination with the trustees to ensure that remedial actions are selected that protect natural resources.

5.11 Site Closure

The goal of all remedial actions is to achieve closure. Closure can be achieved with or without institutional controls. RISC gives parties the flexibility to select the type of remedy that best achieves closure goals. In some cases, a party may choose to both remove the contaminant source in subsurface soil and restrict exposure to affected ground water. IDEM can invalidate closure upon discovery of new information that indicates a potential threat to human health or the environment.

RISC provides closure criteria for SCP sites. Site closure is explained in detail in the [RISC Technical Guide](#).

5.12 Remediation of Emergency Response Sites

The Emergency Response Section was established to provide a mechanism for dealing with spills and other environmental emergencies. [327 IAC 2-6.1](#) requires that the spilled material be removed or neutralized. To meet the intent of the rule and promote efficient spill response, released material must be immediately removed to background levels or nondetectable concentrations “to most effectively prevent a spill from entering waters of the state.”

5.12.1 Applicability

In 1998, it was recognized that a mechanism was needed to address long-term remediation needs at emergency response sites where spill responses failed to remove contaminant concentrations to background or nondetect levels. In these cases, the site may be turned over to the SCP. Under the SCP, the site becomes a “remedial response site.” Remedial response sites usually are not required to conform to all of the administrative requirements of the SCP. When the site is in a remedial response stage, the SCP may use RISC to close the site.

Emergency remedial response sites also fall under the same legal authority as other sites involved in the SCP: Indiana’s [Hazardous Substances Response Trust Fund, IC 13-25-4](#), and Petroleum Releases, [IC 13-24-1](#). Petroleum-contaminated emergency response sites forwarded to the SCP as remedial response sites may also fall under the legal authority of the Leaking Underground Storage Tank (LUST) Program. [Chapter 3](#) of this RISC User’s Guide provides LUST guidance and discusses applicable LUST legislation.

5.12.2 Process

Emergency remedial response sites referred to the SCP are logged into the State cleanup database, and a project manager determines whether it should remain in the SCP or be referred to the LUST Program. A site is referred to the LUST Program if contamination results from a release from an underground storage tank (UST) that held petroleum product after January 1, 1974. If all product was removed from the tank before January 1, 1974, the site should remain in the SCP for the duration of remedial activities. All other sites not involving USTs should remain in the SCP during remediation. Releases from unregulated USTs are usually remediated in accordance with the LUST guidance procedures described in [Chapter 3](#) and [Appendix 3](#) of this RISC User’s Guide.

For sites retained under the SCP, a letter requesting an initial spill report is sent to the responsible party. IDEM technical staff then review the report and recommend further actions. IDEM may request further site investigation to determine the extent of contamination. The next step depends on the extent of contamination and the contaminant(s). The LUST guidance in Chapter 3 can be used to establish cleanup criteria for petroleum-contaminated sites. In some cases, the site may be recommended for remediation under the Voluntary Remediation Program (VRP) (see [Chapter 4](#)) or scored using the ISM for possible inclusion in the Commissioner's Bulletin. If a site is not scored using the ISM, it may be possible to apply for a no further action (NFA) letter. Requests for NFA letters are processed and evaluated on a site-by-site basis.

5.13 Cleanup Guidance

Cleanup guidances for each type of site that may interact with the SCP are summarized in Table 5-1 below. [Chapter 5](#) of the Technical Guide contains guidance on determining which constituents to consider at a site.

Table 5-1. Cleanup Guidance

Type of Site	Cleanup Guidance
SCP	Based on RISC Technical Guide
Remedial Response	Based on RISC Technical Guide
LUST	Based on Chapter 3 and Appendix 3 of this RISC User's Guide and the RISC Technical Guide
Petroleum	Based on Chapter 3 and Appendix 4 of this RISC User's Guide and the RISC Technical Guide
VRP	Based on Chapter 4 of this RISC User's Guide and the RISC Technical Guide